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From: Deeks, Ashley S
Sent: Tuesday, December 05, 2006 10:52 AM
To: Bellinger, John B(Legal)
Cc: Dorosin, Joshua L; Padmanabhan, Vijay M; Filippatos, James
Subject: FW: possible letter to editor on renditions

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"The United States has been in a useful dialogue with the EU, both in a multilateral context and with individual EU member states, about the appropriate legal framework for the fight against terrorism. However, contrary to recent press reports, the United States has not tried to develop a "framework agreement" on renditions with either Austria or the EU. Rather, as part of our constructive dialogue with the EU on legal issues, the United States has explained the limited circumstances under which the United States has used renditions and the legal basis for those renditions.

The United States has also pointed out that European countries have used renditions. The U.S. Government is well aware that the renditions reviewed and upheld by the European Court of Human Rights involved renditions of an individual to face criminal prosecution, but renditions of suspects to stand trial are not the only situations in which renditions are appropriate. The Council of Europe's Venice Commission asserts that there are only four legal ways to transfer a prisoner to foreign authorities: deportation, extradition, transit, and transfer of a sentenced person to serve that sentence in his country of origin. Thus, under the Venice guidelines, even the French rendition of Carlos the Jackal would have been improper.

We disagree with the Venice Commission's conclusion. Renditions are not per se unlawful, though renditions should not be used to transfer terrorist suspects to face torture, and the United States does not transport anyone, and will not transport anyone, for this purpose. We believe, however, that the international community must continue to be able to use renditions not only to bring terrorists to justice but also to prevent terrorist suspects from remaining at large to plan future attacks."